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14 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
15 **SAN JOSE DIVISION**

16 SANTA CRUZ LESBIAN AND GAY
COMMUNITY CENTER d/b/a THE DIVERSITY
17 CENTER OF SANTA CRUZ, et al.,

18 *Plaintiffs,*

19 v.

20 DONALD J. TRUMP, in his official capacity as
21 President of the United States, et al.,

22 *Defendants.*
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Case No. 20-cv-07741-BLF

**MOTION FOR LEAVE TO FILE
BRIEF AS AMICI CURIAE IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Hearing Date: December 10, 2020

Hearing Time: 9:00 A.M.

Trial Date: None Set

INTRODUCTION

This Court will hear Plaintiff's motion for a nationwide preliminary injunction against Executive Order 13950, "Combatting Race and Sex Stereotyping" ("Executive Order") on December 10, 2020, at 9:00 A.M. The City of Seattle, together with 20 cities and counties ("*amici*"), request leave of the court to submit the attached *amici curiae* brief in support of Plaintiffs' motion. Plaintiffs have consented to the filing of the amicus. Defendants take no position.

Amici are local governments entrusted with protecting and ensuring the welfare of our residents. Achieving this mission requires remedying the harmful effects of systematic racism, sexism, and other forms of discrimination against ethnic, religious, sexual, linguistic, and other minorities. The Executive Order frustrates this goal by burdening the use of diversity trainings, a tool that *amici* rely on to further essential racial- and gender-justice efforts within our jurisdictions. The Executive Order threatens the withdrawal of crucial funding from those who employ or provide such trainings. Accordingly, *amici* have a substantial interest in the outcome of this litigation.

ARGUMENT

This Court has recognized that whether to allow a party to file an amicus brief is "solely within the Court's discretion, and generally courts have exercised great liberality in permitting amicus briefs." *California v. Dep't of the Interior*, 381 F. Supp. 3d 1153, 1164 (N.D. Cal. 2019) (citations omitted) (internal quotation marks omitted). Those seeking to appear as amicus "must merely make a showing that [their] participation is useful or otherwise desirable to the court." *Id.* "District courts frequently welcome amicus curiae briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved or if the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide." *Sonoma Falls Developers, LLC v. Nev. Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003) (internal quotation marks omitted); *see also Miller-Wohl Co. v. Comm'r of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982) (noting that "the classic role of amicus curiae" includes "assisting in a case of general public interest" and "supplementing the efforts of counsel").

Amici's motion seeking leave to file should be granted as this is a case of significant general

1 public interest. *See Miller-Wohl Co.*, 694 F.2d at 204. The Executive Order threatens funding cuts to
2 all federal contractors who use diversity trainings that reinforce concepts such as unconscious and
3 systemic bias. *Amici* provide essential services to the public and seek to further the goal of
4 eradicating the continuing harms of systemic and institutionalized discrimination. The Executive
5 Order is an unconstitutional interference with this public mission, and thus has ramifications on
6 parties beyond those directly involved. *See Sonoma Falls Developers, LLC*, 272 F. Supp. 2d at 925.

7 The proposed submission also offers an additional perspective to the Court on the importance
8 of diversity trainings. *See id.* *Amici* have relied on comprehensive diversity trainings to strengthen
9 our relationships with our communities. They are especially crucial to the delivery of the essential
10 services that local governments provide every day. Cities are becoming increasingly diverse, and
11 diversity trainings can strengthen governmental cultural competencies and help local governments
12 better understand the perspective and concerns of diverse communities. These trainings are relevant
13 to nearly all of *amici's* operations, from criminal justice to housing to public health. *Amici* benefit
14 tremendously from the use of these trainings, as we seek to attain equity in governmental outcomes
15 and processes.

16 In addition to supporting the work of serving our diverse communities, comprehensive
17 diversity training also helps support local governments' inward-facing, organizational goals. *Amici*
18 strive to ensure that our ranks are reflective of the communities we serve. Training creates awareness
19 of and sensitivity to difference, while highlighting the value that different perspectives add to a
20 workforce. Overall, they foster an environment where diverse workforces can thrive.

21 The proposed brief also informs the Court's perspective on the scope of harms, as *amici* are
22 non-parties that are both directly and indirectly harmed by the Executive Order. All *amici* receive
23 and rely on funding from the federal government. All *amici* use diversity training as part of our
24 programming to combat systemic discrimination. All *amici* also provide essential services to the
25 public—services that may be hampered because of the Executive Order.

26 Furthermore, due to the vague wording of the Executive Order, it is unclear which trainings
27 and funding streams are implicated, and thus *amici* have spent resources contingency planning.
28 Without clear guidance, essential funding for *amici* may be withdrawn because of the difficulties

1 with compliance. *Amici* are also concerned about the effects of the Executive Order on essential
 2 service providers such as Plaintiffs. Because the Executive Order threatens funding to those
 3 providers, *amici* may be required to increase provisioning of their services to compensate.

4 CONCLUSION

5 For the forgoing reasons, *amici* seek leave of this Court to file the attached *amici curiae* brief
 6 and respectfully request that the Court grant the motion for preliminary injunction.

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 8 Dated: December 3, 2020

Respectfully submitted,

9 /s/ Victoria Stilwell

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CERTIFICATE OF SERVICE

I, Victoria Stilwell, hereby certify that the foregoing *Motion for Leave to File Brief as Amici Curiae* was served on the attorney of record for each party through the CM/ECF system and will be sent electronically to the registered participants on December 3, 2020.

Dated: December 3, 2020

/s/ Victoria Stilwell

Victoria Stilwell